

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE TRICOR INDIRECT PURCHASER
ANTITRUST LITIGATION

C.A. No. 05-360 (SLR)
(consolidated)

THIS DOCUMENT RELATES TO:
PAINTERS' DISTRICT COUNCIL NO.30
HEALTH AND WELFARE FUND and
RICHARD G. WILDE, C.A. No. 05-360 (SLR)

VISTA HEALTH PLAN, INC. and ROSS LOVE,
C.A. No. 05-365 (SJR)

PENNSYLVANIA EMPLOYEES BENEFIT
TRUST FUND, C.A. No. 05-390 (SLR)

ALLIED SERVICES DIVISION WELFARE
FUND and HECTOR VALDES,
C.A. No. 05-394 (SLR)

DIANA KIM, C.A. No. 05-426 (SLR)

ELAINE M. PULLMAN, NEIL PERLMUTTER,
HELENA PURLMUTTER and LULA RAMSEY,
C.A. No. 05-450 (SLR)

PHILADELPHIA FEDERATION OF TEACHERS
HEALTH AND WELFARE FUND,
C.A. No. 05-467 (SLR)

CINDY CRONIN, C.A. No. 05 482 (SLR)

CHARLES SHAIN and SANDRA KRONE,)
C.A. No. 05-475 (SLR)

LOCAL 28 SHEET METAL WORKERS,
C.A. No. 05-516 (SLR)

ALBERTO LITTER, C.A. No. 05-695 (SLR)

DECLARATION OF THOMAS R. GLENN

The undersigned, THOMAS R. GLENN, states that:

1. I am Senior Vice President and Chief Operating Officer for Complete Claim Solutions, LLC (“CCS”), a firm specializing in class action notice and administration. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts set forth herein and, if called as a witness, could and would testify competently thereto.

2. I submit this declaration in order to provide the Court with information about providing notice to the Indirect Purchaser Class (“IP Class”) certified by the Court’s order of August 18, 2008 [D.I. 430]. CCS has significant experience in providing class notice in pharmaceutical antitrust litigation, including *In re Warfarin Sodium Antitrust Litigation* before this Court. See *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 244, 252-53 (D. Del. 2002) (approving CCS notice plan), *aff’d*, 391 F.3d 516, 536-37 (3d Cir. 2004).¹ CCS has been retained by IP Class Counsel to advise the Court about the options for providing notice to the IP Class prior to the trial scheduled to commence November 3, 2008. It is my understanding that the IP Class has been certified for claims of injunctive relief only and that IP Class members do not have the right to opt-out.

3. The options available to provide notice to the IP Class prior to the trial scheduled for November 3, 2008 include some or all of the following:

a. *Notice on the World Wide Web.* CCS can develop a TriCor page on its website (www.CompleteClaimSolutions.com/tricor) to provide a medium for IP Class members

¹ See also *Vista Health Plan, Inc. v. Warner Holdings Company III, Inc.*, 246 F.R.D. 349, 356 (D.D.C. 2007) (approving of CCS and notice plan); *In re Remeron Antitrust Litig.*, No. Civ. 02-2007 FSH, Civ. 04-5126 FSH, 2005 WL 2230314, at *5 (D.N.J. Sept. 13, 2005) (same); *In re Terazosin Hydrochloride Antitrust Litig.*, No. 99MDL1317, 2005 WL 2451960, at *1 (S.D. Fla. July 8, 2005) (same); *In re Relafen Antitrust Litig.*, 231 F.R.D. 52, 63-64 (D. Mass. 2004) (same); *VistaHealth Plan, Inc. v. Bristol-Myers Squibb Co.*, 266 F. Supp. 2d 44, 45-46 (D.D.C. 2003) (same).

to learn about the litigation. The webpage can be referenced in any written notice or press release. The webpage can provide access to the class notice, relevant court orders, and any important updates on the progress of the litigation. CCS can also employ strategic search engine placement and ranking within the most common and popular search engines to ensure optimum exposure. Setting up a webpage of this nature generally takes approximately seven days and will cost approximately \$750.

b. *Toll-free telephone number.* CCS can provide and staff a toll-free hotline to answer questions from IP Class members and to respond to requests for copies of the written notice. Setting up a toll-free line and training staff generally takes approximately seven days and will cost approximately \$3,000.

c. *Press release.* CCS can issue a press release to approximately 4,500 media outlets and approximately 4,000 websites nationwide. The press release can direct IP Class members to the TriCor class webpage and toll free number for more information. Issuing and distributing a press release will cost approximately \$1,500. Reporters often use press releases to find material for stories. CCS can track the press release and can provide clippings of any stories that may be written about the litigation due to the press release.

d. *Direct mail notice to third-party payors.* In the course of administering notice and settlement of pharmaceutical product class action settlements, CCS has developed a proprietary database of approximately 42,500 insurers, union health and welfare funds, employer-based healthcare programs, and other third-party payors (“TPPs”), thereby enabling direct mail notice to the overwhelming majority of TPP Class members. Once CCS has a form of notice approved by the Court, printing and mailing of the notice typically takes about 14 days

and will cost approximately \$30,000. I am informed that, as in other pharmaceutical antitrust class actions, neither IP Plaintiffs nor Defendants have access to confidential medical information that would enable them to provide direct mail notice to consumers of fenofibrate products.

4. In the event that an opt-out class is certified for purposes of litigation or settlement, CCS will recommend a comprehensive media publication program similar to the one employed in *Warfarin Sodium* and the other pharmaceutical product class actions such as those identified above.

5. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'T. R. Glenn', is written above a horizontal line.

Thomas R. Glenn

Dated: August 25, 2008